

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed April 22, 2005. Applicants respectfully request reconsideration and favorable action in this case in view of the following remarks.

Rejections Under § 103(a)

Claims 1-5, 7-13, 15, 16, 21 and 22 are rejected under 35 U.S.C. § 103(a), as being unpatentable over U.S. Patent Application Publication No. 2002/0152078 to Yuschik et al. ("*Yuschik*") in view of U.S. Pat. No. 6,141,644 to Kuhn et al. ("*Kuhn*"). Applicants respectfully traverse these rejections for the reasons stated below.

Applicants' prior response dated February 28, 2005, argued that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine *Yuschik* and *Kuhn*. Applicants submitted arguments why one skilled in the art at the time the invention was made would not combine *Yuschik* and *Kuhn*. Applicants reiterate those arguments here without reproducing them.

In response to those arguments, the Examiner stated at pages 6-7 of the Office Action that "Yuschik discloses a simple method of identifying a speaker (see abstract). Kuhn recognizes the problems associated with Yuschik's system (column 1) and proposes a better implementation (column 2). Thus it would have been obvious to alter Yuschik with the system of Kuhn."

First, Applicants submit that *Yuschik's* voiceprint identification system is not simple as suggested by the Examiner. *Yuschik's* system combines two automatic speech recognition technologies: Speaker Independent (SI) and Speaker Dependent (SD). (See, e.g., *Yuschik*, paragraphs 0012-0014). *Yuschik* includes "at least two signal processors [that] process the voice data, and each signal processor operates with different selection criterion." (*Id.* at para. 0020). The detailed description of *Yuschik* goes on to explain in detail this not-so-simple system.

Second, Applicants submit that *Kuhn* does not recognize problems associated with *Yuschik's* system as suggested by the Examiner. Nowhere in the background section of *Kuhn* is the *Yuschik* system (or a similar multiple speech recognition technology system)

discussed. *Kuhn* merely discusses problems with speaker verification and identification. Just because *Kuhn* deals with speaker verification and identification does not mean that its teachings can be combined with *Yuschik*. As described in the previous response, as mandated by the Federal Circuit, “[a] factual inquiry whether to combine references must be thorough and searching.” *In re Sang-Su Lee*, 277 F.3d 1338, 1343 (Fed. Cir. 2002). The Examiner has not provided any technical reasoning why one skilled in the art at the time the invention was made would be motivated to combine *Yuschik* and *Kuhn*. The Examiner has not provided any discussion at all on how the *Kuhn* system based on eigenvoices that utilizes a model-based analytical approach employing Hidden Markov Model parameters concatenated to form supervectors, etc., etc., (see *Kuhn*, cols. 1 and 2), can be combined with the *Yuschik* system that utilizes an SI/SD combination method. Additionally, there is no reasonable expectation of success regarding the proposed *Yuschik-Kuhn* combination because of the very different approaches used by each.

Therefore, for at least this reason, a *prima facie* case of obviousness has not been established. Thus, independent Claims 1, 9 and 21 are allowable. Reconsideration and favorable action are respectfully requested.

Dependent Claims 2-5 and 7-8 depend from independent Claim 1, dependent Claims 10-13 and 15-16 depend from independent Claim 9, and are also not rendered obvious by the *Yuschik – Kuhn* combination proposed by the Examiner because they include the limitations of their respective independent claim as well as additional limitations that further distinguish *Yuschik* and *Kuhn*. Reconsideration and favorable action are respectfully requested.

Claim 22 is also allowable for reasons analogous to those above in conjunction with Claims 1, 9 and 21. Reconsideration and favorable action are respectfully requested.

Claims 17-20 are rejected under 35 U.S.C. § 103(a), as being unpatentable over *Kuhn* in view of U.S. Patent Application Publication No. 2003/0174823 to Justice et al. (“*Justice*”).

Similar to the arguments above, Applicants submit that the Examiner has not provided the required evidence of a suggestion to combine *Kuhn* and *Justice*. The Examiner states at page 6 of the Office Action that “it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify *Kuhn* with the blacklist of *Justice*. This

modification would have improved the reliability of Kuhn by providing a system and method for inhibiting fraud in card-not-present transactions as suggested by Justice (paragraph 0006).” The Examiner is simply taking an advantage of *Justice* and giving that as a reason for a motivation to combine. It appears the Examiner may be picking and choosing from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art,” which is impermissible within the framework of section 103.” In re Hedges, 783 F.2d 1038, 1041, 228 USPQ 685, 687 (Fed. Cir. 1986) (emphasis added). Thus, Applicants believe that the above alleged motivation is simply hindsight reconstruction. In fact, *Justice* does not even discuss automatic speech verification and/or identification. For at least this reason, Applicants submit that one skilled in the art at the time the invention was made would not be motivated to combine *Kuhn* and *Justice*.

Hence, the Examiner has not established a prima facie case of obviousness. Thus, independent Claims 17 and 19 are allowable. Reconsideration and favorable action are respectfully requested.

Dependent Claims 18 and 20 depend from independent Claims 17 and 19, respectively, and are also not rendered obvious by the *Kuhn* and *Justice* combination proposed by the Examiner because they include the limitations of their respective independent claim as well as additional limitations that further distinguish *Kuhn* and *Justice*. Reconsideration and favorable action are respectfully requested.

CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For at least the foregoing reasons, Applicants respectfully request full allowance of all pending Claims.

If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicants believe no fees are due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge said fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTTS L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicants



Thomas A. Beaton
Reg. No. 46,543

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CORRESPONDENCE ADDRESS:

Customer No.: **05073**
Attorney Docket No. 073897.0147